

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CHARLES J. MAY,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:07-CV-1320 CAS
	)	
DON ROPER,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before the Court on state prisoner Charles J. May's action pursuant to 28 U.S.C. § 2254. This case was referred to United States Magistrate Judge Lewis M. Blanton for report and recommendation on all dispositive matters and for final disposition on all non-dispositive matters, pursuant to 28 U.S.C. § 636(b).

On May 27, 2008, petitioner moved to dismiss his writ of habeas corpus without prejudice. On June 12, 2008, Magistrate Judge Blanton issued an Order noting that petitioner was bound by the limitations of 28 U.S.C. § 2244(d) and directing petitioner to inform the court and the Assistant Attorney General if he still wished to dismiss his petition for writ of habeas corpus. The Order specifically noted that the words "without prejudice" did not mean that petitioner could refile his petition if it should be barred by any provisions of 28 U.S.C. § 2244.

On July 9, 2008, petitioner filed a Motion to Dismiss Without Prejudice, in which he indicated that he was confirming his request to dismiss without prejudice pursuant to Federal Rule of Civil Procedure 41. On July 14, 2007, Judge Blanton filed a Report and Recommendation of United States Magistrate Judge that recommended that Mr. May's petition for writ of habeas corpus be dismissed

without prejudice. No objections were filed to the Magistrate Judge's Report and Recommendation within the time permitted.

After careful review of the record, the Court concurs in the recommendation of the Magistrate Judge.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of United States Magistrate Judge is **sustained, adopted and incorporated** herein. [Doc. 12]

**IT IS FURTHER ORDERED** that Charles J. May's motions to dismiss the case without prejudice are **GRANTED**. [Docs. 9 and 11]

**IT IS FURTHER ORDERED** that Charles J. May's Petition for Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254 is **DISMISSED without prejudice**. [Doc. 1]

An appropriate order of dismissal will accompany this order.

A handwritten signature in black ink, appearing to read "Charles A. Shaw", written over a horizontal line.

**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 1st day of August, 2008.